

§ 116.05

bridge owner is responsible for the entire cost of the required alterations.

§ 116.05 Complaints.

Any person, company, or other entity may submit to the District Commander of the Coast Guard district in which a bridge over a navigable water of the United States is located, a complaint that a bridge unreasonably obstructs navigation. The complaint must be in writing and include specific details to support the allegation.

§ 116.10 Preliminary review.

(a) Upon receipt of a written complaint, the District Commander will review the complaint to determine if, in the District Commander's opinion, the complaint is justified and whether a Preliminary Investigation is warranted.

(1) The District Commander's opinion as to whether or not the complaint warrants a Preliminary Investigation will be formed through informal discussions with the complainant, users of the affected waterway, the owner of the bridge, and other interested parties.

(2) In forming an opinion, the District Commander may also review the district files, records of accidents, and details of any additional written complaints associated with the bridge in question.

(b) In the absence of any written complaint, the District Commander may decide, based on a bridge's accident history or other criteria, to conduct a Preliminary Investigation.

(c) The District Commander will inform the complainant and the Administrator, Bridge Administration Program of the determination of any Preliminary Review. If the District Commander decides that the bridge in question is not an unreasonable obstruction to navigation, the complainant will be provided with a brief summary of the information on which the District Commander based the decision and will be informed of the appeal process described in § 116.55. There will be no further investigation, unless additional

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information warrants a continuance or reopening of the case.

[CGD 91-063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96-026, 61 FR 33663, June 28, 1996]

§ 116.15 Preliminary investigation.

(a) During the Preliminary Investigation, the District Commander will prepare a written report containing all pertinent information and submit the report, together with a recommendation for or against the necessity of a Detailed Investigation, to the Administrator, Bridge Administration Program.

(b) The Preliminary Investigation Report will include a description of the nature and extent of the obstruction, the alterations to the bridge believed necessary to meet the reasonable needs of existing and future navigation, the type and volume of waterway traffic, and a calculation of the benefits to navigation which would result from the proposed bridge alterations.

(c) The Administrator, Bridge Administration Program will review the Preliminary Investigation Report and make a Preliminary Decision whether or not to undertake a Detailed Investigation and a Public Meeting.

(d) If after reviewing the Preliminary Investigation Report, the Administrator, Bridge Administration Program decides that further investigation is not warranted, the complainant will be notified of the decision. This notification will include a brief summary of information on which the decision was based and details of the appeal process described in § 116.55.

[CGD 91-063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96-026, 61 FR 33663, June 28, 1996]

§ 116.20 Detailed investigation.

(a) When the Administrator, Bridge Administration Program determines that a Detailed Investigation should be conducted, the District Commander will initiate an investigation that addresses all of the pertinent data regarding the bridge, including information obtained at a public meeting held under § 116.25. As part of the investigation, the District Commander will develop a comprehensive report, termed the "Detailed Investigation Report",

which will discuss: the obstructive character of the bridge in question; the impact of that bridge upon navigation; navigational benefits derived; whether an alteration is needed to meet the needs of navigation; and, if alteration is recommended, what type.

(b) The District Commander will forward the completed Detailed Investigation Report to the Administrator, Bridge Administration Program for review together with a recommendation of whether the bridge should be declared an unreasonable obstruction to navigation and, if so, whether an Order to Alter should be issued.

[CGD 91-063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96-026, 61 FR 33663, June 28, 1996]

§ 116.25 Public meetings.

(a) Any time the Administrator, Bridge Administration Program determines that a Detailed Investigation is warranted, or when Congress declares a bridge unreasonably obstructive, the District Commander will hold a public meeting near the location of the bridge to provide the bridge owner, waterway users, and other interested parties the opportunity to offer evidence and be heard, orally or in writing, as to whether any alterations are necessary to provide reasonably free, safe, and unobstructed passage for waterborne traffic. The District Commander will issue a public notice announcing the public meeting stating the time, date, and place of the meeting.

(b) When a bridge is statutorily determined to be an unreasonable obstruction, the scope of the meeting will be to determine what navigation clearances are needed.

(c) In all other cases, the scope of the meeting will be to address issues bearing on the question of whether the bridge is an unreasonable obstruction to navigation and, if so, what alterations are needed.

(d) The meeting will be recorded. Copies of the public meeting transcript will be available for purchase from the recording service.

[CGD 91-063, 60 FR 20902, Apr. 28, 1995, as amended by CGD 96-026, 61 FR 33664, June 28, 1996]

§ 116.30 Administrator, Bridge Administration Program Review and Evaluation.

(a) Upon receiving a Detailed Investigation Report from a District Commander, the Administrator, Bridge Administration Program will review all the information and make a final determination of whether or not the bridge is an unreasonable obstruction to navigation and, if so, whether to issue an Order to Alter. This determination will be accompanied by a supporting written Decision Analysis which will include a Benefit/Cost Analysis, including calculation of a Benefit/Cost Ratio.

(b) The Benefit/Cost ratio is calculated by dividing the annualized navigation benefit of the proposed bridge alteration by the annualized government share of the cost of the alteration.

(c) Except for a bridge which is statutorily determined to be an unreasonable obstruction, an Order to Alter will not be issued under the Truman-Hobbs Act unless the ratio is at least 1:1.

(d) If a bridge is statutorily determined to unreasonably obstruct navigation, the Administrator, Bridge Administration Program will prepare a Decision Analysis to document and provide details of the required vertical and horizontal clearances and the reasons alterations are necessary.

(e) If the Administrator, Bridge Administration Program decides to recommend that the Commandant issue an Order to Alter, or a bridge is statutorily determined to unreasonably obstruct navigation, the Administrator, Bridge Administration Program will issue a letter to the bridge owner ("The 60-Day Letter") at least 60 days before the Commandant issues an Order to Alter. This letter will contain the reasons an alteration is necessary, the proposed alteration, and, in the case of a Truman-Hobbs bridge, an estimate of the total project cost and the bridge owner's share.

(f) If the bridge owner does not agree with the terms proposed in the 60-Day Letter, the owner may request a reevaluation of the terms. The request for a reevaluation must be in writing, and identify the terms for which reevaluation is requested. The request